

Welsh Property, LLC
Petitioner,

* BEFORE THE
* PLANNING BOARD OF

ZB-1071M

* HOWARD COUNTY, MARYLAND

* * * * *

MOTION: *To recommend approval of the proposal to rezone 41.81 acres of land from R-20 to R-ED.*

ACTION: *Recommended approval; Vote 5 to 0.*

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RECOMMENDATION

On April 28, 2008 the Planning Board of Howard County, Maryland, considered the petition of Welsh Property, LLC to rezone 41.81 acres of land from R-20 to R-ED. The subject property is located in the First Election District. The subject property is described as Tax Map 31, Grid 4, Parcels 122 & 856. The address is 4738 Ilchester Road (the "Property").

The reason for the proposed rezoning is the Petitioner's allegation of mistake in the existing zoning and change in the character of the neighborhood.

The petition, the Department of Planning and Zoning Technical Staff Report and Recommendation, and the comments of reviewing agencies, were presented to the Board for its consideration. The Department of Planning and Zoning recommended approval of the Petitioner's request.

The Petitioner was represented by Joseph Rutter, Jr. Mr. Rutter discussed the history of the Property. He said the Property was rezoned from R-ED to R-20 in the 2004 Comprehensive Zoning at the owners' request through a developer who wished to maximize the yield of single-family detached lots. He stated that the test of mistake is whether the Zoning Board knew or should have known of facts which were available that did not support the rezoning that the Zoning Board did not investigate. He also stated that he believes the boundaries of the neighborhood to be different than those defined by the Department of Planning and Zoning. Mr. Rutter said there is a change in the character of the neighborhood which extends to Elkridge and Route 1. He said a study was done which included that area and created the mechanism for implementing the R-ED zoning classification for protecting the environmental features of land. He said R-ED zoning applied all over College Avenue and east to I-95 and Lawyers Hill. Mr. Rutter explained that the recently adopted Green Neighborhood Development Standards ("GND") represents a change in planning trends toward smaller lots and environmental protection which equates to a change in character.

Several citizens spoke in opposition to the proposal. One person stated that the fatal flaw of R-ED zoning is the allowance for zero lot line lots and clustering. He said this creates an urban type of

1 development which is not appropriate for a scenic road. Another opponent stated that the pond at the rear of
2 the townhouse development on Jean's Way is an eyesore. She expressed concern that trees which are
3 promised are never planted and said that R-ED zoning is being driven by economics. A third person
4 testified that the increased lot yield of R-ED zoning destroys the environment. He said he would like the
5 Planning Board to wait until the GND standards are refined to make a decision. Another opponent testified
6 that she lives in the non-cluster area of Jean's Way and she does not consider Elkridge and Route 1 to be
7 part of her neighborhood. She said that neighbors asked Mr. Rutter at the pre-submission community
8 meeting for details of the proposed development but there was no commitment. She said the townhouses on
9 Jean's Way severely detract from the rural feel of the area.

10 Ms. Dombrowski asked Mr. Rutter how many single-family detached units were shown on the
11 approved R-20 plan and he replied that there were 68 units with the smallest permitted lot size of 12,000
12 square feet. Ms. Dombrowski inquired how many units would be possible under R-ED. Mr. Rutter replied
13 that there would be 72.

14 **Motion:**

15 Ms. Dombrowski made a motion to approve the petition in accordance with the recommendation of
16 the Technical Staff Report. Mr. Grabowski seconded the motion.

17 **Discussion:**

18 Ms. Dombrowski said that when R-ED zoning was created, from a policy standpoint it was put into
19 place based on the General Plan and that it is very specific. She said the rezoning to R-20 was a mistake
20 that the Planning Board did not have a chance to review prior to the Council decision. She said a lot of
21 forethought was given to R-ED zoning and that land was deliberately placed into that zone to ensure better
22 land use. In its consideration to review the re-zoning application, the Council at that time did not use the
23 correct process to rezone the Property and did not apply criteria for determining if the rezoning was a better
24 land use decision. Rezoning should not be approved solely to permit maximizing "potential " financial
25 gain. She said she agrees with the Petitioner that there has been a shift in thought away from sensitivity to
26 the land has now begun to return to a more environmentally attuned policies with the enactment of the
27 green building legislation.

28 Mr. Grabowski said that the 1990 General Plan contained the results of a lot of effort to evaluate
the area from Route 1 to the north to establish R-ED zoning, and that the last minute presentation of the
rezoning request for this Property at the Comprehensive Zoning stage was not the correct procedure and did
not give adequate time for evaluation. He said he agrees with the Petitioner that the neighborhood boundary
does go to Route 1 and the change to R-20 was not well thought out and constitutes a mistake.

Mr. Rosenbaum said he agrees the Council did not have information available on which to make a
correct decision. He said that although R-ED may not be perfect, it is better than R-20 for this Property and
he agrees that there was a mistake.

1 Ms. CitaraManis concurred with the staff recommendation that there has not been a change in
2 character of the neighborhood since 2004. However, she did concur with the petitioner, staff and other
3 board members that the Council made a mistake when they decided to rezone the property from R-ED to
4 R-20.

5 **Vote:**

6 The motion passed by a vote of 5 to 0.


7 For the foregoing reasons, the Planning Board of Howard County, Maryland, on this 8th day of
8 May, 2008, recommends that the Petitioner's request to rezone the 41.81 acre Property from R-20 to R-ED,
9 be **APPROVED**.

10 HOWARD COUNTY PLANNING BOARD

11 
12 Tammy J. CitaraManis, Chairperson

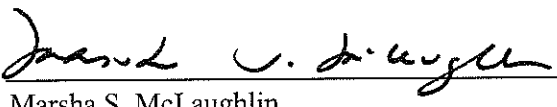
13 
14 Linda A. Dombrowski

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16 David Grabowski

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18 Gary Rosenbaum

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20 Ramsey Alexander, Jr.

21 ATTEST:

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23 Marsha S. McLaughlin
24 Executive Secretary
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